

CERTIFIED MAIL

Date:

APR 11 1991

Employer Identification Number:

Form Number:

Tax Years:

12/31/86 and thereafter

Key District:

Person to Contact:

Contact Telephone Number:

----- Dear Sir or Madam:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

You are neither organized nor operated exclusively for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. Your certificate of incorporation does not limit your purposes to exempt ones within the meaning of Section 501(c)(3). Your operations further private, rather than public interests and your earnings inure to the benefit of private individuals.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

[REDACTED]
Associate Chief
Appeals Office

cc [REDACTED]

JUL 17 1989

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Dear Applicant:

We have completed our review of the application for recognition of exemption from Federal income tax under section 501(c)(3).

The evidence submitted indicates that you were incorporated on [REDACTED], under the laws of [REDACTED] with your stated purpose "... being to preach, spread and promote the gospel of Jesus of Nazareth by proclaiming the word of God, The Holy Bible, both Old and New Testament, in every media and means known or to be known to man for the eternal deliverance, healing and prosperity of all who believe in Jesus of Nazareth. Additionally, the corporation shall function as a church and do things done by a Church, including regular fellowship and worship of God."

Your articles of incorporation further provide that upon dissolution of the corporation, after payment of all liabilities, the corporate assets shall be given to a non-profit religious organization qualified under IRC 501(c)(3) or other appropriate successor formed for the express, if not sole, purpose of promoting the Gospel of Jesus of Nazareth."

Your activities, as stated in your application, include conducting religious services in a room adjacent to your founder's apartment each Sunday at 12 noon. You also conduct an intercessory Prayer Service at 7:00 p.m. on Wednesday evening and bible teaching. A Praise Service is also held at 7:00 p.m. on Friday evenings.

You state that you currently have about [REDACTED] members. Your officers consists of [REDACTED] Pastor/President and Treasurer and [REDACTED] as Vice-President and Secretary.

During [REDACTED], you show income from contributions totalling \$ [REDACTED] and in [REDACTED] you show receipts of \$ [REDACTED].

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]	[REDACTED]			
Surname	[REDACTED]	[REDACTED]	[REDACTED]			
Date	6-6-89	6-8-89	6/20/81			

Form 1937-A (Rev. 6-80) Correspondence Approval and Clearance

Department of the Treasury/Internal Revenue Service

[REDACTED]

Expenses for [REDACTED] include \$[REDACTED] to pay for the rent of Pastor [REDACTED], \$[REDACTED] for donations to three other ministries, and \$[REDACTED] for attorney's fees, equipment, printing, and miscellaneous office expenses. In [REDACTED], \$[REDACTED] was also paid for rent for the pastor, \$[REDACTED] to [REDACTED] for a New Year's Service rental room, and \$[REDACTED] was donated to various ministries including [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for religious, charitable and other stated purposes.

Income Tax Regulations section 1.501(c)(3)-1(a)(1) provides that, to be exempt an organization described in section 501(c)(3) must be both organized and operated exclusively for one or more purposes described in this section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for an exempt purposes only if its Articles of Organization limit the purposes of such organization to one or more exempt purposes.

Regulations section 1.501(c)(3)-1(b)(1)(iv) states that an organization is not organized exclusively for an exempt purpose if, by terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any the activities specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations state that an organization is not organized or operated exclusively for exempt purposes unless it serves public rather than private interests. Thus, to meet the requirements of this section, it is necessary that the organization establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, or persons controlled directly or indirectly by such private interests.

[REDACTED]

In Church of Transfiguring Spirit v. Commissioner, 76 T.C. 1981, a religious organization was formed by two individuals who contributed substantial amounts of the organization's funds. Virtually all of the organization's income was expended as housing allowances for the benefit of the founders and creators of the organization. In addition, the founders and their daughter had complete control of the organization's expenditures and reimbursements and also had control of the board of directors since they served as officers. The court ruled that since most of the income was contributed by the founders and all control of the organization was vested in them, the organization was not operated exclusively for an exempt purpose. The court also determined that the organization served the private interests of its founders rather than required public interests.

In Basic Bible Church v. Commissioner, 74 T.C. 846 (1980), an organization was formed to operate as a church. The founders and incorporators had control over the management of the organization's affairs and determined how the organization's funds would be spent. The court ruled that the organization was not entitled to exemption since it served to benefit the founders of the organization. It was also noted that when an organization's affairs are controlled by a small group that donates most of its funds, and when that group is the recipient of the funds, prohibited inurement is strongly suggested. The court ruled in this case that the organization was not exempt since it served the private interests of the founders rather than required public purposes.

To qualify for exemption under section 501(c)(3), the applicant organization has the burden of showing (1) that it was organized and operated exclusively for religious other stated purposes, (2) that no part of its net earnings inured to the benefit of a private individual and shareholder, and (3) that no substantial part of its activities consisted of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity. National Association of American Churches v. Commissioner, 82 T.C. 18 (1984).

Our review of the application submitted indicates that your organization does not meet either the organizational or operational test to be recognized as tax exempt under section 501(c)(3). Your organizational document, the articles of incorporation, fail to meet the requirements to be exempt under this section since your purposes are broader than those permitted by section 501(c)(3).

Your application also states that [REDACTED] are the two officers that control the affairs of the organization and are totally responsible for decisions made. [REDACTED], in their capacity of President/Treasurer, and Vice-President/Secretary, have exclusive control over the organization's assets and distribution of its funds, a substantial portion of which they contributed to the organization. Your financial statements for [REDACTED] and [REDACTED] show that \$[REDACTED] has been paid from the organization's funds each year which serves the private interests of your founder, rather than serving public purposes.

[REDACTED]

Based on the information submitted, we have determined that you are not entitled to exemption under section 501(c)(3) and are a taxable entity. You are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible under section 170 of the Code.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in the enclosed Publication 892, this will become our final determination on this matter. In accordance with section 6104(c) of the Code, we are notifying the appropriate state officials of this determination. Further, if you do not appeal this determination within the time provided, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely,

[REDACTED]

District Director

Enclosure: Publication 892

cc: State Attorney General [REDACTED]
cc: [REDACTED]